

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

<b>DELPHONSO OSCAR BREWER,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>1:07CV168</b>
<b>v.</b>	)	<b>2:94CR200-1</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	

**O-R-D-E-R**

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on August 15, 2007, was served on the parties in this action. Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

**IT IS THEREFORE ORDERED** that Respondent's motion to dismiss this action for being filed beyond the one-year limitation period [Pleading No. 43] be **GRANTED**, that Petitioner's motion to vacate, set aside or correct sentence [Pleading No. 40] be **DENIED**, and that this action be dismissed with prejudice. A judgment dismissing this action will be

entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the day of December 3, 2007

/s/ N. Carlton Tilley, Jr.  
United States District Judge